

RULES OF PROCEDURE

TOWN OF ZIONSVILLE

ADVISORY PLAN COMMISSION

Effective Dates:

Initial Adoption: September 21, 1998

Amendments of -

June 19, 2000: June 20, 2000

October 15, 2001: October 16, 2001

Note: Certain terms included in this document appear in *Italic print*. These terms are defined terms which have a specific meaning in this document. The defined terms may be found in Article X of these Rules of Procedure.

RULES OF PROCEDURE: TOWN OF ZIONSVILLE PLAN COMMISSION

I. Plan Commission Meetings

1. Regular Meetings

The *Plan Commission* shall hold its regular meeting on the third Monday of each month at 7:00 p.m. in the Town Hall, 110 South 4th Street, Zionsville, Indiana. If the third Monday of the month is a holiday as recognized by the Town of Zionsville, or if it is impossible to conduct the meeting at that time or place, the regular monthly meeting shall be scheduled for the first Tuesday following the third Monday of the month.

2. Special Meetings

Special meetings of the *Plan Commission* may be called by the President or by two (2) members of the *Plan Commission* upon written request to the *Secretary*. The *Secretary* shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting.

Written notice of a special meeting shall not be required if (i) the date, time and place of a special meeting is fixed at a regular meeting; and (ii) all members of the *Plan Commission* are present at the regular meeting.

3. Executive Session

The *Plan Commission* may meet in Executive Session pursuant to I.C. 5-14-1.5-6.1.

4. Public Meetings

All meetings of the *Plan Commission*, except legally constituted executive sessions, shall be open to the public who shall have the right to give testimony during the public hearing portion of the meeting, in accordance with these Rules of Procedure.

5. Minutes

The *Plan Commission* shall maintain minutes of all meetings.

II. Proposals to: Adopt a Replacement Town of Zionsville Zoning Ordinance or Town of Zionsville Subdivision Control Ordinance; or Amend or Partially Repeal the Text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance

1. Who May Initiate

A *Proposal* to adopt a replacement zoning ordinance after repealing the entire Town of Zionsville Zoning Ordinance (including amendments and zone maps) or Town of Zionsville Subdivision Control Ordinance (including amendments), or to amend or partially repeal the text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance may be initiated by the *Plan Commission* or the Town Council.

2. Preparation of a Proposal

The *Plan Commission* shall prepare the *Proposal* consistent with the requirements of I.C. 36-7-4-601. The *Plan Commission* may engage other professionals to assist in the actual writing of the *Proposal* consistent with the policies and directives of the *Plan Commission* or the Town Council.

3. Considerations

In preparing and considering a *Proposal*, the *Plan Commission* and Town Council shall pay reasonable regard to:

- a. The Comprehensive Plan for the Town of Zionsville;
- b. Current conditions and the character of current structures and uses in each district;
- c. The most desirable use for which the land in each district is adapted;
- d. The conservation of property values throughout the Town of Zionsville; and,
- e. Responsible development and growth.

4. Public Hearings

The *Plan Commission* must hold at least one public hearing on a *Proposal* prior to certification of the *Proposal* to the Town Council.

5. Notice

The *Plan Commission* hereby declares that all property owners in the Town of Zionsville are interested parties in relation to a *Proposal* to adopt a replacement zoning ordinance after repealing the entire Town of Zionsville Zoning Ordinance (including amendments and zone maps) or Town of Zionsville Subdivision Control Ordinance (including amendments), or to amend or partially repeal the text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance. The *Plan Commission* shall provide notice to all such interested parties by publication in accordance with I.C. 5-3-1 at least ten (10) days prior to the date set for a public hearing. Published notice shall comply with the provisions of I.C. 36-7-4-604. No further notice by the *Plan Commission* shall be required.

6. Certification of Proposals

A *Proposal* to adopt a replacement zoning ordinance after repealing the entire Town of Zionsville Zoning Ordinance (including amendments and zone maps) or Town of Zionsville Subdivision Control Ordinance (including amendments) shall only be certified by the *Plan Commission* to the Town Council if the *Proposal* receives a favorable recommendation from the *Plan Commission*.

A *Proposal* to amend or partially repeal the text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance may be certified by the *Plan Commission* to the Town Council with a favorable recommendation, an unfavorable recommendation or with no recommendation from the *Plan Commission*.

7. Publication of Notice of Adoption of Proposals

a. After adoption of a *Proposal* to adopt a replacement zoning ordinance after repealing the entire Town of Zionsville Zoning Ordinance (including amendments and zone maps) or the entire Town of Zionsville Subdivision Control Ordinance (including amendments) the *Plan Commission* shall publish a notice of adoption in accordance with I.C. 5-3-1. Notice of adoption shall:

- (1) Summarize the subject matter of the ordinance;
- (2) Give the date of adoption;
- (3) Specify the places or area that would be directly affected by the ordinance (this does not require identification of real property by metes and bounds);
- (4) Specify the penalty or forfeiture prescribed for a violation of the ordinance; and,

- (5) Give two (2) locations open to the public where the entire text of the ordinance is available for inspection.
- b. After adoption of a *Proposal* to amend or partially repeal the text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance, the *Plan Commission* shall print the text of the ordinance in book or pamphlet form. No other printing or publication of any zoning ordinance is required.

8. Public Inspection

If the Town of Zionsville Zoning Ordinance or Town of Zionsville Subdivision Control Ordinance is not included in the Code of Ordinances for the Town of Zionsville, two (2) copies of the book or pamphlet (and supplement, if any) shall be filed in the Office of the Clerk and shall be kept on file in that Office for public inspection.

9. Effective Date

Unless the *Proposal* specifies a later effective date, the ordinance takes effect when it is adopted unless the ordinance contains a penalty or forfeiture for a violation, in which case the ordinance may not take effect until fourteen (14) days after the later of the following:

- a. The final day on which notice of its adoption is published; or
- b. The day on which the ordinance is filed with the clerk's office.

III. Filing of Petitions for Zone Map Change, Modification of Commitments, Subdivision Plats, Development Plans, or Vacations of Land

1. Who May File

- a. Zone map changes shall be initiated by the *Plan Commission* or by a *Petition* signed by property owners of at least fifty (50) percent of the land involved in the *Petition*.
- b. Modification of commitments, subdivision plats and development plans shall be initiated by a *Petition* signed by all of the owners of the land involved in the *Petition*.
- c. Vacations of land in a plat shall be initiated by a *Petition* signed by the owner(s) of all or part of the plat pertaining to the land contained in the *Petition*.
- d. An owner may be represented by an *Authorized Agent*. An *Authorized Agent* shall file a written statement with the *Plan Commission*, signed by the Owner on a form acceptable to the *Plan Commission*, at the time of filing a *Petition*.

2. Filing Deadline

Petitions for public hearing before the *Plan Commission* shall be filed with the *Plan Commission* no later than 3:00 p.m. on a date which is at least 31 days prior to the initial hearing before the *Plan Commission* at which the *Petition* is to be considered.

3. Form of Filing

All *Petitions* to the *Plan Commission* shall be on forms provided by the *Plan Commission* and shall include all materials requested on said forms. In addition, site plans, surveys, legal descriptions, building elevations, sign details, proposed commitments and any other relevant supporting documentation shall be of a usable scale and quality.

4. Findings of Fact

When *Findings of Fact* are required by applicable law, the Town of Zionsville Zoning Ordinance, Town of Zionsville Subdivision Control Ordinance or these Rules of Procedure, the *Petitioner* shall, at the time of filing of the *Petition*, file proposed detailed written *Findings of Fact*.

5. Specifying of Request

All *Petitions* shall specify the approvals requested. Any items, including proposed waivers of development requirements in connection with a development plan approval or waivers of the standards set forth in the Town of Zionsville Subdivision Control Ordinance, even if indicated on the proposed plans, shall not be considered a part of the request presented to the *Plan Commission* for its consideration unless such waivers are specified in the *Petition*.

A *Petition* for the vacation of land must:

- a. State the reasons for and circumstances prompting the request;
- b. Specifically describe the property in the plat proposed to be vacated; and,
- c. Give the name and address of each owner of land in the plat.

A *Petition* for the vacation of land may include a request to vacate any recorded covenant or commitments filed as part of the plat.

6. Primary and Secondary Plats

The procedures related to the filing for and obtaining approval of *Primary* and *Secondary Plats* contained in these Rules of Procedure are provided for convenience purposes only. The complete outline of procedures to be followed in the filing for and obtaining approval of *Primary* and *Secondary Plats* is set forth in the Town of Zionsville Subdivision Control Ordinance. In case of conflict between any portion of these Rules of Procedure and the Town of Zionsville Subdivision Control Ordinance related to the filing for and obtaining approval of *Primary* and *Secondary Plats*, the Town of Zionsville Subdivision Control Ordinance shall control.

IV. Docketing of Petitions, Order of Hearings, Investigation of Petitions

1. Docketing by Secretary

Each *Petition* filed in proper form pursuant to the guidelines established by the *Plan Commission* shall, within ten (10) days of submitting a complete filing, be numbered and docketed by the *Secretary* for an initial hearing by the *Plan Commission*. Such *Petitions* shall be numbered consecutively in the order of their filing according to the type of *Petition*.

2. Order of Hearings

On the date of the public hearing, the *Plan Commission* shall hear *Petitions* in the order of their numbers as follows:

a. Continued Petitions

- (1) Zone Map Changes
- (2) Modification of Commitments
- (3) Subdivision Plats
- (4) Development Plan Approvals
- (5) Vacation of Land

b. Initial Hearing Petitions

- (1) Zone Map Changes
- (2) Modification of Commitments
- (3) Subdivision Plats
- (4) Development Plan Approvals
- (5) Vacation of Land

The *Plan Commission* may, in its discretion and at a public hearing, change the order in which *Petitions* shall be heard at the public hearing.

V. Notice Requirements for Petitions for Zone Map Change, Modification of Commitments, Subdivision Plats, Development Plans or Vacation of Land

Notice of all *Petitions* for zone map change, modification of commitments, subdivision plats, development plans or vacation of land for public hearing before the *Plan Commission* shall be given to all interested parties or property owners in the following manner:

1. Notice by Publication

Notice, in a form approved by the *Secretary*, shall be published by the *Petitioner* in accordance with I.C. 5-3-1 at least ten (10) days prior to the date of the public hearing.

The *Petitioner* shall be responsible for the cost of such publication.

2. Notice by Mailing

Notice, in a form approved by the *Secretary* in accordance with the requirements of I.C. 36-7-4-604, shall be mailed to each interested party.

Notice by mailing shall be given by certified mail, return receipt requested, at least ten (10) days prior to the date of the hearing.

The requirements of mailing notice shall not be applicable to *Petitions* initiated by the *Plan Commission*.

3. Interested Parties

a. Interested parties for a *Petition* for zone map change, modification of commitments, subdivision plat and development plan approval shall include:

- (1) All owners of property within the area included in the *Petition* who are not *Petitioners*; and,
- (2) All owners of adjoining parcels to a depth of one (1) ownership surrounding the perimeter of the area included in the *Petition*.

In the case of property which has been submitted to the Horizontal Property Law (I.C. 36-1-6), notice shall be given only to the association of co-owners.

For the purpose of notice requirements contained in this subsection a., where any immediately adjoining parcel is owned by the *Petitioner*, the

subject property of the *Petition* shall be deemed to include the immediately adjoining parcel owned by the *Petitioner*.

For the purpose of notice requirements contained in this subsection a., where any immediately adjoining parcel is a dedicated right-of-way, railroad right-of-way or private alley or street, the subject property of the *Petitioner* shall be deemed to include the portion of the right-of-way or private street that is contiguous and adjacent to the parcel owned by the *Petitioner*.

- b. Interested parties for a *Petition* for the vacation of land in a plat shall include all property owners within said plat.
- c. In determining the name and address of legal title owners, the records of the Boone County Auditor, or the appropriate office designated in an adjoining county, at a point in time within fourteen (14) days of the date of filing, shall be deemed to be the true names and addresses of all persons entitled to receive notice.

4. Affidavit of Notice

Petitioner shall file an Affidavit of Notice with the *Secretary*, in a form as specified by the *Plan Commission*, indicating compliance with all notice requirements of these Rules, at least three (3) business days prior to the public hearing. Copies of all "Receipt for Certified Mail" (white slips) shall be filed with the Affidavit of Notice. The originals of the "Domestic Return Receipts" (green cards) shall be filed with the *Secretary* upon the later of (i) the public hearing or (ii) receipt by the *Petitioner*.

5. Defective Notice

If proper notice has not been given, a *Petition* may be continued until a later date to allow time for un-notified persons to prepare for the public hearing. Personal appearance shall waive any defect in notice unless the defect in notice is timely raised at the beginning of the public hearing on the *Petitioner's* *Petition*.

VI. Conduct of Public Hearings

1. Time Allowed and Procedure for Hearing of Petitions

In order to provide all interested parties with a fair hearing, *Petitioners* and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and argument at the public hearing of every *Petition* before the *Plan Commission*. The order of the presentation of evidence, statements and arguments shall be as follows:

- a. *Petitioners* and persons appearing in support of a *Petition* shall be allotted a total of fifteen (15) minutes to present evidence, statements and arguments in support of the matter being considered.
- b. Remonstrators and persons appearing in opposition to a *Petition* shall then be allotted a total of fifteen (15) minutes to present evidence, statements and arguments in opposition to the matter being considered.
- c. The *Petitioner* shall then have a total of five (5) minutes for rebuttal, which shall include only evidence, statements and argument in rebuttal of remonstrators' evidence, and a brief closing statement.
- d. Remonstrators shall then have a total of five (5) minutes for rebuttal, which shall include only evidence, statements and argument in rebuttal of remonstrators' evidence, and a brief closing statement.

At the conclusion of remarks by any party, the *Plan Commission* shall have the right to ask questions pertaining to the evidence, statements and argument presented. Time involved in responding to questions by the *Plan Commission* by either the *Petitioners* or remonstrators shall not be considered for purposes of calculating equal time for presentation.

The presiding officer shall have authority to cut off repetitious and irrelevant testimony and to extend the time allotted to *Petitioners* and remonstrators, but shall make reasonable efforts to allow equal time for *Petitioners* and remonstrators.

2. Testimony

All persons giving testimony to the *Plan Commission* regarding any pending *Petition* shall be deemed to have been given under oath. A person giving testimony shall state their name and address for the record prior to beginning testimony.

3. Orderly Conduct

All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the *Plan Commission* and shall be dealt with by the presiding officer as is deemed fair and proper.

4. Continuances

Requests for continuances by *Petitioners* or remonstrators shall be considered at the beginning of each public hearing agenda prior to calling the first *Petition* for public hearing listed on the agenda.

A continuance request may be made in person or in writing and shall:

- a. specify the date to which the continuance is requested; and
- b. indicate whether it is the first request made by the party for a continuance of the hearing on the subject *Petition*.

If a first request for a continuance is requested in writing and filed with the *Secretary*, at least one week prior to the date of the public hearing, with a copy of the request being sent to the *Petitioner* (in the case of a Remonstrator's request) or to all those entitled to receive notice (in the case of a *Petitioner's* request), the *Petition* shall be considered continued to the next regularly scheduled meeting of the *Plan Commission*. Such written request shall include the date of the next regularly scheduled meeting of the *Plan Commission*. However, the matter shall not be considered continued if it is a *Petition* for Zone Map Change and the *Plan Commission* is required to conduct a public hearing within sixty (60) days of its submission according to IC 36-7-4-608(b). Once a public hearing on a rezoning is held, it may be continued from time to time as may be found necessary by the *Plan Commission* pursuant to IC 36-7-4-604(b)(8).

Continuances may be granted by motion of the *Plan Commission* at the hearing upon a showing of good cause (e.g., the need for additional time for negotiation between *Petitioners* and remonstrators which will reasonably increase the likelihood of agreement between the parties; the unforeseeable need for additional information; or, the unforeseeable absence of a key witness) and provided that the non-requesting party does not suffer a significant hardship because of the grant of a continuance (e.g., presence of remonstrators at the hearing who would be inconvenienced by having to reappear; or, additional expense incurred by *Petitioner* as a result of time delay).

The *Plan Commission* may, at any time, in its discretion, continue the hearing of any *Petition*.

This discretion shall include the ability to continue a hearing if additional documentation, amendments, or revisions to a *Petition* were not received by 4:00 p.m. on the Monday prior to the scheduled hearing of a *Petition*, and the late receipt of such items did not allow for adequate review by the *Plan Commission, Secretary* or Staff.

On its own motion, *Plan Commission* may determine if re-notification of interested property owners shall be required for any continued hearing.

Neither *Petitioners* nor remonstrators shall be granted more than two (2) requests for continuance of a *Petition* unless, in the determination of the *Plan Commission*, a significant hardship can be demonstrated by the requesting party. If a significant hardship cannot be demonstrated, the *Petition* shall be heard as scheduled.

5. No Hearing After 10:00 p.m.

The *Plan Commission* may elect to not begin the hearing on any matter after 10:00 p.m., local time. If a hearing on a *Petition* has not been called for by the presiding officer prior to 10:00 p.m., local time, such *Petition* may be continued until the next regularly scheduled or special meeting of the *Plan Commission*.

Any hearing which has been called for by the presiding officer prior to 10:00 p.m., local time, may be completed.

6. Contacting Plan Commission Members Regarding Pending Petition Prohibited

No person shall contact any member of the *Plan Commission* in advance of a public hearing on any pending *Petition* with intent to influence the *Plan Commission* member's action on such *Petition*.

A written request for continuance as provided for by these rules shall not be construed to be a prohibited contact of a *Plan Commission* member.

A contact with a *Plan Commission* member who is also a member of the Town Council shall not be construed to be a prohibited contact provided that: (i) all contact is limited to that member's official duties as a Town Council member; and (ii) the *Plan Commission* member who is also a member of the Town Council reports on the substance of such contacts to the other members of the *Plan Commission* during the public hearing.

7. Points of Order

The presiding officer of the *Plan Commission* shall, subject to these Rules of

Procedure, decide all points of order or procedure, unless otherwise directed by a majority of the members of the *Plan Commission* present.

8. Secretary's Written Report

Nothing in these Rules of Procedures shall be deemed to prohibit the *Secretary* from submitting a written report, stating any facts concerning the physical characteristics of the area involved in the *Petition*, together with a recital of surrounding land use and public facilities available to service the area, or other pertinent facts. A copy of such statement shall be made available to the *Petitioner* and all remonstrators of record, if any.

9. Disqualification of Plan Commission Member in Case of Personal or Financial Interest

A member of the *Plan Commission* who has a direct or indirect personal or financial interest in any *Petition* presented shall: (i) disqualify himself or herself insofar as the particular *Petition* is concerned; (ii) not sit as a member of the *Plan Commission* during the hearing of the particular *Petition*; and, (iii) not participate as a member in the *Plan Commission's* hearing or decision in such *Petition*.

10. Amendments

Requests to amend any *Petition* may be filed in writing prior to or at the beginning of any hearing, or may be made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment and may request a continuance of the hearing to allow time to study the proposed amendments. It shall be within the discretion of the *Plan Commission* to grant or deny requests for such continuances and to require re-notification. In making this determination, consideration shall be given to whether or not the *Plan Commission*, *Secretary*, *Petitioner*, or any remonstrators have had sufficient time to adequately review these new amendments or supporting documents. Provided, however, any proposed amendment to change the zoning classification to a higher or more inclusive zoning classification shall be redocketed and readvertised.

VII. Final Disposition of Petitions

1. Quorum and Official Vote

A majority of the entire membership of the *Plan Commission* constitutes a quorum. Action of the *Plan Commission* is not official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the *Plan Commission*.

2. Indecisive Vote

When a vote of the *Plan Commission* does not result in an official action of the *Plan Commission* as set forth in section 1. above, the petition shall be automatically redocketed and heard at the next regularly scheduled meeting of the *Plan Commission*.

3. Compliance with Indiana Code

In the event that Rule VII., 1. and VII., 2., noted above are in contravention with IC 36-7-4-301 and IC 36-7-4-302, the Indiana Code provisions, as amended from time to time, shall prevail.

4. Dismissal of Petitions

- a. The *Plan Commission* may dismiss a *Petition* for lack of prosecution when the *Petitioner* has failed to appear at two (2) meetings. The *Plan Commission* may dismiss a *Petition* for lack of jurisdiction.
- b. Any *Petition* which has been dismissed by the *Plan Commission* for lack of prosecution shall not again be filed for consideration within a period of three (3) months from the date of the dismissal, except upon motion to permit re-filing adopted by a majority vote of all members of the *Plan Commission* at a regular or special meeting, for good cause shown.

5. Withdrawal of Petitions

- a. Prior to the issuance or publication of notice for any public hearing to be conducted by the *Plan Commission*, a *Petition* may be withdrawn by the *Petitioner* upon request made in writing. If the request for the withdrawal is received prior to the issuance or publication of notice, the staff shall not place the item on the agenda for the public hearing at which it was to be considered.
- b. If a *Petitioner* wishes to withdraw a *Petition* after notice of the public hearing has been published, the *Petitioner* shall submit a written request to the *Plan Commission* or its staff prior to the public hearing, or at the public hearing prior to the receipt of evidence or testimony on the

Petition. The decision to accept the withdrawal shall be made at the public hearing when the *Petition* was to be considered, and shall be at the discretion of the *Plan Commission*. If the withdrawal of the *Petition* is approved by the *Plan Commission*, the *Petitioner* shall not re-file a substantially similar request within a period of six (6) months from the date of said withdrawal.

- c. No *Petition* may be withdrawn by the *Petitioner* after the *Plan Commission* has received any evidence or testimony regarding the *Petition* at the public hearing scheduled on the *Petition*.

6. Re-Filing Following Adverse Decision

- a. Petitions for Zone Map Change, Modification of Commitments, Subdivision Plat or Development Plan Approval.

No parcel of ground, or part of a parcel, which has been the subject of an adverse decision of a *Petition* for zone map change by the Town Council, an adverse decision of a *Petition* for modification of commitments, subdivision plat or development plan approval by the *Plan Commission*, or an adverse decision of a *Petition* for variance of use, variance of development standards or special exception by the Board of Zoning Appeals, shall again be included in a *Petition* for either a zone map change, modification of commitments, subdivision plat, or development plan approval for a substantially similar request, absent a substantial change in circumstances involving the development within one (1) year from the date of the adverse decision, unless the body making the adverse decision, by an official vote at a public hearing, decides for good cause shown, to allow the re-filing.

Written notice of a special request to include a parcel subject to an adverse decision in another *Petition*, as noted above, shall be provided to:

- (1) adjoining property owners; and,
- (2) the applicable of either the Secretary of the *Plan Commission* or Board of Zoning Appeals.

at least ten (10) days prior to the date of consideration of the special request by the Town Council, the *Plan Commission* or the Board of Zoning Appeals.

- b. Petitions for the Vacation of Land.

After the termination of a vacation proceeding, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two (2) years.

The Plan Commission only has jurisdiction regarding the vacation of a plat per IC 36-7-3-10 and 1. A vacation of any public way is strictly the function of the Town Council, per IC 36-7-3-12. Platted easements are considered public ways, and therefore may only be vacated by the Town Council, per IC 36-7-3-16(a).

7. Certification of Plan Commission's Recommendation

Within ten (10) days after making a favorable recommendation, an unfavorable recommendation, or no recommendation on a *Petition* for zone map change the *Plan Commission* shall certify such recommendation to the Town Council.

8. Findings of Fact

When the *Plan Commission* is required by applicable law, the Town of Zionsville Zoning Ordinance, Town of Zionsville Subdivision Control Ordinance or these Rules of Procedure to enter written *Findings of Fact* in support of its determination, such *Findings of Fact* may be entered at the initial public hearing or, at the *Plan Commission's* discretion, the public hearing on the *Petition* may be continued until the next regularly scheduled meeting of the *Plan Commission* for the adoption of the *Findings of Fact*. If a *Petition* is continued for the adoption of *Findings of Fact*, no further testimony need be taken by the *Plan Commission* prior to adoption of the *Findings of Fact*.

9. Notification of Grant or Denial

Petition for Modification of Commitments, Subdivision Plat, Development Plan Approval or Vacation of Land.

Following final action on a modification of commitments, subdivision plat, development plan approval or vacation *Petition* by the *Plan Commission*, the *Secretary*, within thirty (30) days after the final action, shall notify the *Petitioner* of the final decision by sending the *Petitioner*:

- a. a letter of grant or denial; and,
- b. a copy of the *Plan Commission's* written *Findings of Fact*, which shall be incorporated into the letter of grant or denial.

If the *Petition* was granted, the letter shall include all commitments or conditions imposed, and shall incorporate the approved *Findings of Fact* into the grant.

VIII. Waiver of Rules

The *Plan Commission* shall have the right to waive any portion of these Rules of Procedure upon their own motion, or upon request of any interested party, for good cause shown, provided, however, the *Plan Commission* may not waive any portion of these Rules beyond the minimum requirements established by Statute.

IX. Amendments

Amendments to these Rules of Procedure may be made by the *Plan Commission* upon the affirmative vote of a majority of the members of the *Plan Commission*.

X. Definitions

As used in these Rules of Procedure, the following terms shall have the following meanings:

AUTHORIZED AGENT - Any party duly authorized in writing by the Owner of a subject parcel to act on the Owner's behalf with respect to a *Petition* for zone map change, modification of commitments, subdivision plat, development plan approval or vacation of land.

BUSINESS DAY - A day when the offices of the Town of Zionsville are open to the public for the transaction of business for the entire period of its normal operating hours.

FINDINGS OF FACT - A written statement, based upon the evidence presented at a public hearing and the requirements of applicable law, the Town of Zionsville Zoning Ordinance, Town of Zionsville Subdivision Control Ordinance or these Rules of Procedure, in support of a decision made by the *Plan Commission*.

PLAN COMMISSION - The Town of Zionsville Plan Commission established pursuant to the Advisory Planning Law of the State of Indiana.

PETITION - An application for zone map change, modification of commitments, subdivision plat, development plan approval or vacation of land filed for public hearing before the *Plan Commission* in compliance with applicable state laws, local ordinances, and rules or procedure.

PETITIONER - The Owner of a parcel or the Owner's duly *Authorized Agent*, attorney or representative who makes application for a zone map change, modification of commitments, subdivision plat, development plan approval or vacation of land filed for public hearing before the *Plan Commission*.

PROPOSAL - A draft of an ordinance to adopt a replacement zoning ordinance after repealing the entire Town of Zionsville Zoning Ordinance (including amendments and zone maps) or Town of Zionsville Subdivision Control Ordinance (including amendments), or a draft of an ordinance to amend or partially repeal the text of the Town of Zionsville Zoning Ordinance or the Town of Zionsville Subdivision Control Ordinance.

SECRETARY - The *Secretary* of the *Plan Commission* as duly appointed by the *Plan Commission* is accordance with I.C. 36-7-4-304.

Adoption

The foregoing amendments to the Rules of Procedure of the Town of Zionsville Plan Commission, as amended, are hereby adopted by the affirmative vote of the undersigned members of the *Plan Commission* on this 28th day of September, 1998 (as amended June 19, 2000 and October 15, 2001- amendments included herein).

Town of Zionsville Plan Commission

_____/s/_____
Lana Funkhouser

_____/s/_____
Doug Gauthier

_____/s/_____
Beverly Harves

_____/s/_____
Allan Rachles

_____/s/_____
David J. Carr

_____/s/_____
Tim Wiley

_____/s/_____
William Ferree

ATTEST: _____/s/_____
Edward J. Mitro, Secretary
Town of Zionsville
Plan Commission